

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Polanco Analyst: Roger Lackey Bill Number: SB 2075
Related Bills: None Telephone: 845-3627 Amended Date: 07-09-98
Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Home Appliance and Electronics Service Contracts Regulated by the Bureau
of Electronic and Appliance Repair of the Department of Consumer Affairs

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as
introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as
introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

This bill would provide that the Insurance Code does not apply to service contracts offered by regulated utility companies, thus making taxpayers offering these contracts liable for income or franchise tax, rather than the gross premiums tax.

This bill makes various changes to the Business and Professions Code and the Insurance Code, but will be analyzed only as it impacts the income tax system.

SUMMARY OF AMENDMENT

The July 9, 1998, amendment is the first version identified by the department for analysis.

EFFECTIVE DATE

This bill would be effective January 1, 1999.

SPECIFIC FINDINGS

Current **state law** provides that warranties on home appliances are regulated by the Department of Insurance as a home warranty.

This bill would provide that the Insurance Code does not apply to service contracts which are offered or issued by a person or affiliate of a person whose business is regulated by the Public Utilities Commission and meets the following four conditions: the person or affiliate acts as the guarantor of any service

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

G. Alan Hunter

8/19/98

contract under this section; the service contract term is for one month or less; the issuing person does not engage in the business of home protection; and the person issuing the contract is regulated by the Bureau of Electronic and Appliance Repair of the Department of Consumer Affairs. Thus, these taxpayers would be liable for income or franchise tax rather than the gross premium tax.

Implementation Considerations

This bill would not significantly impact the department's programs and operations.

Technical Considerations

The language of the bill uses different terms such as "a person or affiliate of a person," "company," "regulated person" and "the person" in reference to the entity offering or issuing the service contract. To be consistent, it is suggested that the bill be amended to use consistent terms in referring to the entity offering or issuing the service contract.

FISCAL IMPACT

Departmental Costs

This bill would not impact departmental costs.

Tax Revenue Estimate

This bill would affect sufficiently few taxpayers that the revenue impact cannot be disclosed. Assuming that a taxpayer's only income is from service contracts, as a general rule, the taxpayer with taxable income of approximately 27% of gross sales would pay the same tax under the gross premiums tax or the franchise tax. A taxpayer with taxable income greater than 27% of gross sales would pay more taxes under the franchise tax than the gross premiums tax. Thus, a taxpayer with taxable income less than 27% of gross sales would pay more taxes under the gross premiums tax than the franchise tax.

Tax Revenue Discussion

BOARD POSITION

Pending.